

## Senate Bill No. 1945

### CHAPTER 502

An act to amend Sections 21670, 21672, 21674, 21675, 21677, and 21679 of, and to add Sections 20486 and 21685 to, the Government Code, relating to public employees.

[Approved by Governor September 14, 1996. Filed  
with Secretary of State September 16, 1996.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1945, Craven. Public employees: retirement.

(1) The Public Employees' Retirement Law authorizes local government and public agencies to contract for retirement benefits for local employees.

This bill would prohibit contracting agencies and public agencies that become subject to federal bankruptcy proceedings from rejecting retirement coverage contracts or assuming or assigning those contracts without the prior consent of the retirement board.

(2) Existing law authorizes the establishment of a deferred compensation program for members of the system.

This bill would permit that program to be offered to all state and local public employees.

*The people of the State of California do enact as follows:*

SECTION 1. Section 20486 is added to the Government Code, to read:

20486. Notwithstanding any other provision of law, no contracting agency or public agency that becomes the subject of a case under the bankruptcy provisions of Chapter 9 (commencing with Section 901) of Title 11 of the United States Code, shall reject any contract or agreement between that agency and the board pursuant to Section 365 of Title 11 of the United States Code or similar provision of law; nor shall the agency, without the prior written consent of the board, assume or assign any contract or agreement between that agency and the board pursuant to Section 365 of Title 11 of the United States Code or similar provision of law.

SEC. 2. Section 21670 of the Government Code is amended to read:

21670. The board may establish a deferred compensation program for California public employees. The program shall be made available to all employees of an employer under procedures established by the board unless participation is subject to the terms

of any memorandums of understanding between the employer and the employees.

SEC. 3. Section 21672 of the Government Code is amended to read:

21672. The deferred compensation program may include any or all of the following components:

(a) Investment fund options for participants, as part of the deferred compensation program administered for state employees by the Department of Personnel Administration.

(b) Investment fund options for other participants.

(c) Annuity contracts on behalf of all participants.

SEC. 4. Section 21674 of the Government Code is amended to read:

21674. (a) Investment fund options under subdivision (a) of Section 21672 shall be provided through a written interagency agreement between the board and the Department of Personnel Administration.

(b) Participating employers shall enter into a written contractual agreement with the board that shall be binding for a minimum term of 36 months.

(c) Employees participating under the deferred compensation program shall enter into written salary reduction agreements with their employers, for the purpose of making deferrals or for annuity contracts.

SEC. 5. Section 21675 of the Government Code is amended to read:

21675. All development and administration costs of the deferred compensation program shall be paid by employers and plan participants.

SEC. 6. Section 21677 of the Government Code is amended to read:

21677. The Public Employees' Deferred Compensation Fund shall consist of the following sources and receipts and disbursements shall be accounted for as set forth below:

(a) Premiums determined by the board and paid by employers and plan participants for the cost of administering the deferred compensation program.

(b) Asset management fees as determined by the board assessed against investment earnings of investment options or other investments funds provided by the board to either the state or other public employers. Asset management fees shall be disclosed to plan participants.

(c) Deferrals or contributions to be paid monthly by participating employers or plan participants for investment by the board pursuant to this article. The moneys shall be deposited in the investment corpus account within the Public Employees' Deferred

Compensation Fund, and invested in accordance with the fund option or fund selected by the plan participants.

(d) Disbursements to plan participants shall be paid from a disbursement account within the Public Employees' Deferred Compensation Fund, in accordance with current federal law pertaining to tax-deferred savings plans.

(e) The board shall offer a savings account equivalent plan among those deferred compensation accounts made payable to plan participants.

(f) Income, of whatever nature, earned on the Public Employees' Deferred Compensation Fund shall be credited to the appropriate account. Participant accounts shall be individually posted to reflect net asset value for each fund in which the participant invests.

(g) The board has the exclusive control of the administration and investment of the Public Employees' Deferred Compensation Fund.

SEC. 7. Section 21679 of the Government Code is amended to read:

21679. The officers and employees of this system shall discharge their duties with respect to the deferred compensation plan solely in the interest of the plan participants in the following manner:

(a) For the exclusive purpose of providing deferred compensation to plan participants and defraying reasonable expenses of administering the plan.

(b) In the selection of investment options with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a like character and with like aims.

(c) By diversifying the investment options available to participants of the plan so as to minimize the risk of large losses and by using reasonable diligence to accurately inform all employees and participants as to all plan options.

(d) In accordance with the documents and instruments governing the plan insofar as those documents and instruments are consistent with this article.

SEC. 8. Section 21685 is added to the Government Code, to read:

21685. Notwithstanding any other provision of this part, the following definitions govern the construction of this chapter:

(a) "Participating employer" means any California public agency, including, but not limited to, any office of the county superintendent of schools, school district, community college district, or public agency defined by Section 20056.

(b) "Employer" means any city, county, city and county, district, school district, community college district, county superintendent of schools, and other public authority or body within this state.

(c) “Plan participant” means any person enrolled in the deferred compensation program established by this chapter.

O

